

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18309
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2004. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision based on the file.

[Redacted] (petitioner) filed a property tax reduction application on or about February 24, 2004. The staff reviewed the application noting it did not show the petitioner received any income for the year, and her status as a widow qualified her to receive the benefit.

Because Tax Commission records showed the petitioner was a married woman in 2003, the staff sent her a letter advising her of the intent to deny her the benefit. The petitioner appealed the intended action and her file was transferred to the Legal/Tax Policy Division for administrative review. The petitioner did not respond to a letter from the Tax Appeals Specialist advising her of her appeal rights.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit. The Code states in pertinent part:

63-701. DEFINITIONS. As used in this chapter:

(1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1 of the year or before April 15 in which the claim was filed a claimant must be an owner of a homestead and be:

- (a) Not less than sixty-five (65) years old; or
- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c) A widow or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind.

The code sets out certain eligibility requirements for persons seeking property tax reduction.

In her application for benefits and in her letter of protest, the petitioner claims her status as the widow of [Redacted], who died September 11, 2000, qualifies her to receive the benefit.

Examination of the petitioner's federal and state individual income tax returns reveals a different marital status. Both of the 2003 returns reflect a filing status of married filing joint. The petitioner's occupation is described as "housewife." The returns were signed on February 7, 2004, just below the statement: "Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief they are true, correct, and complete."

In her protest letter, the petitioner claimed she is not married, although her "fiancée" lived with her in her home for eight months during 2003. She said he helped her out because severe

dermatitis had prevented her from working for some time. She further explained she and her “fiancée” prepared their income tax returns with different last names because they were not married. She submitted nothing further.

Rule 600 of the Idaho State Tax Commission Property Tax Administrative Rules, IDAPA 35, Title 01, Chapter 03 states:

PROPERTY EXEMPT FROM TAXATION (Rule 600). The burden of claiming exemption and the burden of proof of entitlement to the exemption is on the person claiming exemption for the property.

The petitioner submitted an application for the property tax reduction benefit showing she qualifies for the benefit as a widow. However, Tax Commission records show the petitioner is a married woman.

In her letter, the petitioner said she is not married but her “fiancée” claimed her in his income tax returns because he had helped her out during the year when she had no job or income. The statement conflicts with the income tax returns and Tax Commission records. The petitioner has not amended her tax returns or submitted any information to correct Tax Commission records. She cannot be considered married for income tax purposes and be considered a widow for property tax reduction benefit purposes.

The petitioner has not established her entitlement to the property tax reduction benefit, and therefore must be denied the benefit.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the [Redacted] County Commissioners under Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff is hereby APPROVED,
AFFIRMED and MADE FINAL.

An explanation of petitioner's right to appeal this decision, if it is adverse to petitioner, is
enclosed with this decision.

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2004, served a copy of the
within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an
envelope addressed to:

[Redacted]
[Redacted]
[Redacted]

Receipt No.
